IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 1062 of 2001 (S/S)
(Old No. 27495 of 1993)

Balwant Singh Shah
S/o Shri Mola Shah
R/o Village Gaonalli, Gairsen

District Chamoli

……. Petitioner

Versus

1. Managing Director
   Garwhal Vikas Nigam Ltd.
   71/1 Rajpur Road
   Dehradun.
2. Board of Directors
   Through its Chairman
   Garhwal Vikas Nigam Ltd.
   74/1 Rajpur Road , Dehradun

…… Respondents

Shri Vikas Pandey, learned counsel for the petitioner.
Shri U.K. Unilyal, Sr. Advocate, assisted by Shri Shobhit Saharia learned counsel for the respondents.

Hon. Prafulla C. Pant, J.

By means of this writ petition, moved under Article 226 of the Constitution of India, the petitioner has challenged the order dated 30.10.1992, whereby the petitioner were has been removed from the service.

2) Heard learned counsel for the parties.

3) Brief Facts of the case, as narrated in the writ petition, are that petitioner was engaged as Chaukidar on daily wages with Garhwal Mandal Vikas Nigam (herein after referred as Nigam) and later on his services were made permanent. The Nigam used to do business of distributing the

Liquid Petroleum Gas apart from the work relating to tourism etc. In the year 1990, the petitioner was posted as Gas Distribution centre. Gopeshwar, at Chamoli. On checking by Indian Oil authorities, it was found that the irregularities were being committed in distribution of L.P. Gas cylinders. It appears that one Sri D. L. Joshiyal, Sri Shishu Pal Singh and the petitioner were placed under suspension and charge sheets were served on them. On conclusion of the department inquiry, it appears that the petitioner was removed from service.

4) A counter affidavit has also been filed on behalf of the respondents.

5) While hearing this writ petition, it was brought to the notice of the Court as mentioned in para-14 of the counter affidavit, that the petitioner preferred departmental appeal against the impugned order but the same was dismissed as the same was not moved within 30 days and no orders were passed on merits in said appeal. Having heard learned counsel for he parties, considering the circumstances explained by the petitioner, this Court finds it just and proper to direct the authorities to decide the appeal, filed by the petitioner on merits. Learned Counsel for the respondents states that respondents have no objection if the departmental appeal is directed to be decided on merits.

6. Therefore, this writ petition is disposed of with the direction that the departmental appellate authority shall dispose of the appeal, preferred by the petitioner on 04.01.1993 against the impugned order of his removal from service, on merits.

Dt. 05.09.2007 **(Prafulla C. Pant, J)**

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